

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

RICHARD FLETCHER, ET AL.

v.

KEENAN T. HOLLOWAY, ET AL.

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Civil No. - JFM-17-3

FILED
U.S. DISTRICT COURT
DISTRICT OF MARYLAND
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MEMORANDUM

Richard and Joann Fletcher have instituted this action against numerous state and local agencies, as well as seven individuals. The state and local agencies have filed motions to dismiss. The motions to dismiss will be granted.¹

The Fletchers' cause of action arises from an extremely unfortunate set of circumstances. The Fletchers were at home in Baltimore County, Maryland on April 22, 2015. Mr. Fletcher heard a commotion outside his house. He exited his house and saw a large group of students from Community High School, located nearby in Baltimore City, surrounding and climbing on his motor vehicles which were parked across the street from his home. He also noted two teenage girls engaged in a fight.

Mr. Fletcher approached the group and requested that the girls stop fighting and that the students stop climbing on his vehicle. The response of the students was to strike and kick Mr. Fletcher over and over again. The vicious attack continued for a number of minutes and only ended with the arrival of the police. By that time Mr. Fletcher was severely and permanently injured. Mrs. Fletcher witnessed her husband being beaten and bloodied.

¹ Seven individual defendants apparently have not been served. However, for the reasons stated in this Memorandum, no claim has been stated against them. Therefore, this action will be dismissed in its entirety.

Mr. Fletcher was rushed to a hospital. He was hospitalized for a long period of time, and he underwent multiple procedures and surgeries. He is still undergoing treatment. He has suffered, among other injuries, brain damage, memory loss, disfigurement, pain and suffering, and post-traumatic stress disorder.

The students had just been released from the Community High School, a Baltimore City alternative high school located a short distance down the road from the Fletchers' home. Some of the students, including at least one of the defendants, had prior criminal records.

When Baltimore City first opened Community High School, defendant MTA provided bus service to the students at the end of the school day. However, prior to the attack on Mr. Fletcher, the MTA discontinued the school pickup and refused to reinstate it, despite complaints and community safety concerns. As a result, a large number of Community High School students walked through the Fletchers' neighborhood to reach a bus stop a number of blocks away from the school.

The moving defendants are the State of Maryland, the Maryland Department of Transportation, Pete Rahn, the Maryland State Transportation Secretary, the MTA, Paul Comfort, Esq., the Administrator of MTA, the Maryland State Department of Education, H. Leon Langley (Director of the Pupil Transportation Office of the Maryland State Department of Education), Gregory Thornton (the Chief Executive Officer of the Baltimore City Public Schools), the Baltimore Community High School, the Baltimore City Board of School Commissioners, Marnell Cooper, the Chairman of the Board of School Commissioners, the Baltimore Community High School Police, and the Mayor and City Council of Baltimore.²

² The Fletchers have voluntarily dismissed their claims against the State of Maryland.

The Fletchers have asserted a number of causes of action against the moving defendants. All depend upon the existence of a duty owed by the defendants to the Fletchers. The existence of a duty is a question of law to be resolved by the court. *See Pace v. State*, 425 Md. 145, 154, 38 A.3d 418, 423 (2012); *Legore v. One West Bank, FSB*, 898 F. Supp. 2d 912, 918 (D. Md. 2012). As a general rule, a defendant “is under no special duty to protect another from . . . acts by a third person, in the absence of statutes, or of a special relationship.” The Fletchers have not alleged any facts giving rise to a special relationship. Moreover, when a statute or common law “imposes upon a public entity a duty to the public at large . . . the duty is not one enforceable in tort.” *Muthukumarana v. Montgomery County*, 370 Md. 447, 486, 805 A.2d, 395 (2002). This includes “the ‘duty’ owed by the police by virtue of their positions as officers.” *Ashburn v. Anne Arundel County*, 306 Md. 617, 628, 510 A.2d 1087. This is particularly true here since Mr. Fletcher left the safety of his home to confront the students.

A separate order granting the motions to dismiss is being entered herewith.

Date: April 24, 2017

J. Frederick Motz
J. Frederick Motz
United States District Judge